

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

ZAHRA MOWAFY,	:	NO: 05-733-KAJ
	:	
Plaintiff	:	
v.	:	JURY TRIAL DEMANDED
	:	
NORAMCO OF DELAWARE, INC.	:	
And NORAMCO, INC.	:	
	:	
Defendant	:	

AMENDED COMPLAINT

PARTIES

1. Plaintiff, Zehra Mowafy is an adult female who was born in Egypt to Arab parents in 1951. She is a naturalized American citizen.

2. Defendants Noramco of Delaware, Inc. and Noramco, Inc. (collectively Noramco) are corporations conducting business at 500 Swedes Landing Road, Wilmington, Delaware.

3. Noramco is a private employer and enterprise engaged in interstate commerce that has employed, at all times relevant, in excess of twenty employees for every day in the calendar year.

JURISDICTION AND VENUE

4. This is an action for equitable and injunctive relief and damages, to secure the protection and to redress the deprivation of rights secured by Title VII of the 1964 Civil Rights Act, 42 U.S.C. §2000e et seq., and the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 et seq.

5. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§1331, 1343(3) and (4), 42 U.S.C. §2000e-5, and 29 U.S.C. §626(c)(1).

6. Venue is proper in this district in that the discriminatory acts giving rise to the claim occurred in this district, as required by 42 U.S.C. §2000e(f)(3).

FACTS

7. Mowafy was employed by Noramco (one or both of the corporate defendants, whose operations are interrelated, was her employer) as a Senior Scientist starting September 19, 2001.

8. Mowafy's religion is Islam. This is well known to those who work with her since her observation of her faith includes distinctive dress and prayer during the workday.

9. Mowafy was, at all relevant times, qualified for the job at which she was employed by Noramco.

10. Mowafy was terminated by Noramco on or about January 9, 2003. The reason she was given for this termination was poor performance.

11. Mowafy believes, and therefore avers, that the purported job elimination was a pretext for unlawful discrimination because of, *inter alia*:

(a) open hostility toward her displayed by her immediate supervisor, Yong Zhang;

(b) management's toleration of harassing behavior by co-workers which included: repeated suggestions that terrorism is inherent in Islam; rude reactions to her prayer; comments about her age; false accusations relating to her work and integrity and numerous other insulting and prejudicial actions;

(c) falsified allegations regarding her performance of her job.

ADMINISTRATIVE PREREQUISITES TO SUIT

12. A charge was filed with the Equal Employment Opportunity Commission on October 27, 2003. A true copy thereof is attached hereto as Exhibit A, and a copy of the receipt for certified mail confirming the filing date as Exhibit B.

13. The EEOC issued a Notice of Right to Sue to Plaintiff on July 19, 2005. A true copy is attached hereto as Exhibit C.

COUNT I
Unlawful Discrimination under Title VII

14. The averments of paragraphs one through 13 are incorporated herein by reference.

15. Defendant's actions constitute unlawful discrimination based on religion, race and/or national origin in violation of Title VII, 42 U.S.C. §2000e-5.

WHEREFORE, Plaintiff respectfully request that this Honorable Court grant legal and equitable relief, including:

- (a) injunctive relief against further acts of discrimination;
- (b) back pay with interest;
- (c) reinstatement to the position Plaintiff would have enjoyed if not for defendant's unlawful action or, in lieu thereof, front pay;
- (d) compensatory damages in an amount in excess of \$150,000.00;
- (e) punitive damages;
- (f) reasonable attorneys' fees and costs.

COUNT II
Unlawful Discrimination under the ADEA

16. The averments of paragraphs one through 13 are incorporated herein by reference.

17. Defendant's actions constitute unlawful discrimination based upon Plaintiff's age in violation of the ADEA, 29 U.S.C. §626.

WHEREFORE, Plaintiff requests legal and equitable relief including:

- (a) reinstatement to the position Plaintiff would have occupied or, in lieu thereof, front pay;
- (b) back pay with interest;
- (c) an additional equal amount of back pay as liquidated damages;
- (d) front pay;
- (e) attorneys' fees and costs.

THE NEUBERGER FIRM

/s/ Stephen J. Neuberger
STEPHEN J. NEUBERGER, ESQ. (#4440)
Two East Seventh Street
Suite 302
Wilmington, DE 19801-3707
(302) 655-0582
SJN@NeubergerLaw.com
Attorney for Plaintiff

Of Counsel:

William T. Wilson
Laurie B. Wyche-Abele
MacELREE HARVEY, LTD.
17 West Miner Street
West Chester, PA 19382
(610) 436-0100
Attorneys for Plaintiff

Dated: November 1, 2005

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

CHARGE NUMBER

☐ FEPA☐ EEOC

and EEOC

PENNSYLVANIA HUMAN RELATIONS COMMISSION

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

MS. ZAHRA MOWAFY

HOME TELEPHONE (Include Area Code)

(610) 793-9904

STREET ADDRESS

CITY, STATE AND ZIP CODE

1119 DORSET DRIVE, WEST CHESTER, PA 19382-8007

CITY

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Noramco of Delaware, Inc.

NUMBER OF EMPLOYEES, MEMBERS

500 PLUS

TELEPHONE (Include Area Code)

302-652-3840

STREET ADDRESS

CITY, STATE AND ZIP CODE

500 Swedes Landing Road, Wilmington, Delaware 19801

COUNTY

NAME

Noramco, Inc. (World Headquarters)

TELEPHONE NUMBER (Include Area Code)

706-353-4400

STREET ADDRESS

CITY, STATE AND ZIP CODE

1440 Olympic Drive, Athens, GA 30601

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☒ RACE☐ COLOR☐ SEX☒ RELIGION☒ AGE☐ RETALIATION☒ NATIONAL
ORIGIN☐ DISABILITY☐ OTHER (Specify)DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

9/17/01

1/9/03

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

1. I am an adult over the age of 40. My date of birth is November 4, 1951.

2. I am a Muslim individual and openly practice my religion.

3. I was employed by Noramco of Delaware, Inc., a subsidiary of Johnson & Johnson as a Senior Scientist from September 19, 2001, ending January 9, 2003. I was qualified for my position as a Senior Scientist and had many years working as such with other companies, including Johnson and Johnson, in the past. At the time of my termination, I was still a Senior Scientist and had a salary of approximately \$80,000 per year.

(See attached.)

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

Barbara J. Butler

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Zehra Mowafy

Date

Charging Party Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

Notary Seal

Barbara J. Butler, Notary Public
West Chester Boro, Chester County
My Commission Expires Sept 21, 2004

EEOC FORM 5 (Test 10/94)

EXHIBIT A

Member, Pennsylvania Association of Notaries

CHARGE OF DISCRIMINATION
ZAHRA MOWAFY
PARTICULARS, CONTINUED:

4. I believe the elimination of my job as Senior Scientist was based on my age and my religion because:

I was hired by Noramco soon after the terror attacks on September 11, 2001. I regularly and openly practice my religion since the time that I became employed by Noramco, including performing my required daily prayers. I also wear dress that clearly demonstrates that I am a Muslim American woman. When I initially interviewed with my supervisor, Yong Zhang, I could tell that he did not like something about me. After my interview, I was not immediately hired for my position. Instead, when I initially telephoned the company to find out about the status of the position, I was told that another ad was being placed in the newspaper for my job. Several weeks after I was told that the company put the ad for my position in the paper again, I received a call from a different manager, not Yong Zhang, asking me to work for the company. I believe that Yong Zhang did not want me to work at the company because of my age, race, national origin and my religion.

Zhang and the company hired young coop students from Drexel University to work in the lab where I worked. I would observe the coops receive preferential treatment from Zhang on a regular basis.

Over time, I noticed that the younger coops would be assigned job duties for which I was qualified and had expected to perform as part of my job as a senior scientist.

I also began to experience problems at work from what I believe were efforts by Zhang and others at work to sabotage my work for the company. For instance on one occasion, a computer virus was installed on my work computer which destroyed 525 of my saved files.

Zhang was openly hostile toward me during my employment at Noramco. For instance, he would spit every time that he passed by my work desk. He also would verbally reprimand me for things that I did not do.

The work environment that I was subjected to on a daily basis was hostile and had an adverse impact upon the conditions of my employment.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>OK Taylor</i></p> <p>B. Received by (Printed Name) C. Date of Delivery 10/3/10</p>
<p>1. Article Addressed to: E.E.O.C. Philadelphia District Office 21 S. Fifth Street Philadelphia, PA 19106-2515</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label) 91 7108 2133 3930 4193 9068</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-0381

EXHIBIT B

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JUL 20 2005

DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Zahra Mowafy
111 N Dorset Drive
West Chester, PA 19382

From: Equal Employment Opportunity Commission
Philadelphia District Office
The Bourse
21 S. Fifth Street, Suite 400
Philadelphia, PA 19106-2515

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

[]

Charge No.	EEOC Representative	Telephone No.
170-2004-00315	Legal Unit	(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limit required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


Marie M. Tomasso, District Director

Enclosure(s)

July 19, 2005
(Date Mailed)

cc: William T. Wilson, Esquire (for Charging Party)
Larry L. Turner, Esquire (for Respondent)